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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/520,576	03/08/2000	Roland Vincent St. John Killick	03628-0450	1427

29052 7590 07/10/2002

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EXAMINER

KEMPER, MELANIE A

ART UNIT	PAPER NUMBER
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3622

DATE MAILED: 07/10/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/520,576

Applicant(s)

ST. JOHN KILLICK, ROLAND  
VINCENT

Examiner

M Kemper

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 February 2002.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1,13 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Suzuki, patent number 6,129,274.

Suzuki teaches a method and corresponding system for tracking consumer data comprising: assembling an individual database (see at least col. 4, lines 25-35, col. 6, lines 30-40); extracting the purchasing data (col. 4, lines 55 – col. 5, line 10, col. 7, lines 25-35); sending extracted consumer purchasing data to a data collection center (col. 4, lines 55 – col. 5, line 10, col. 5, lines 25-35); analyzing the extracted data and communicating customized information to the consumer (col. 4, lines 55 – col. 5, line 10, col. 7, lines 25-55).

3. Claim 21 is rejected under 35 U.S.C. 102(e) as being clearly anticipated by Stevens, patent number 6,327,570.

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Stevens teaches providing the consumer with a data acquisition device (see at least col. 3, lines 50 – col. 4, lines 10, col. 10, lines 5-50); assigning a product code to the consumer product, attaching a product identifier device to the product, activating the product identifier, acquiring the product code with the consumer's acquisition device (see at least col. 4, lines 30-67, col. 20, lines 5-35); extracting the purchasing data and analyzing the consumer database (col. 8, lines 5-35).

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2-12, 14-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki, patent number 6,129,274 in view of Stevens, patent number 6,327, 570.

Stevens teaches a method and corresponding system for tracking consumer data comprising: assembling an individual database (see at least col. 7, lines 25-35, col. 10, lines 25-50, col. 4, lines 59-62); extracting the purchasing data (col. 4, lines 55-67); sending extracted consumer purchasing data to a data collection center (col. 7, lines 5-35); analyzing the extracted data and communicating customized information to the consumer (col. 8, lines 5-35). Stevens also teaches providing the consumer with a data acquisition device (see at least col. 3, lines 50 – col. 4, lines 10, col. 10, lines 5-50); assigning a product code to the

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consumer product, attaching a product identifier device to the product, activating the product identifier, acquiring the product code with the consumer's acquisition device (see at least col. 4, lines 30-67, col. 20, lines 5-35); the product identifier is a barcode label and the data acquisition device is a bar code reader with memory (col. 10, lines 5-50) or a radio frequency tag (col. 20, lines 5-45); polling the data acquisition device (see at least col. 17, lines 25-65); the customized information is communicated to the consumer remote from the point of sale (col. 15, lines 50-60). Stevens does not show that the collection center is controlled by the provider of the product.

Suzuki teaches a method and corresponding system for tracking consumer data comprising: assembling an individual database (see at least col. 4, lines 25-35, col. 6, lines 30-40); extracting the purchasing data (col. 4, lines 55 – col. 5, line 10, col. 7, lines 25-35); sending extracted consumer purchasing data to a data collection center (col. 4, lines 55 – col. 5, line 10, col. 5, lines 25-35); analyzing the extracted data and communicating customized information to the consumer (col. 4, lines 55 – col. 5, line 10, col. 7, lines 25-55). Suzuki also teaches maintaining control over the data collection center (col. 5, lines 60-67).

It would have been obvious to one having ordinary skill in the art at the time of the invention to have implemented the personal agent device and product code and identifier of Stevens in the system of Suzuki since the personal agent device belongs to the customer and thus the retailer would not incur the costs of the

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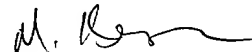
store devices of Suzuki while still gathering the data used for promotional and personalized messages.

6. Claims 1-21 are objected to because of the following informalities: Claims should be in sentence form where it is unnecessary to capitalize lettering in the body of the claim. Appropriate correction is required.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M Kemper whose telephone number is 703-305-9589. The examiner can normally be reached on M-F (9:00-5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric W. Stamber can be reached on 703-305-8469. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.



M Kemper  
Primary Examiner  
Art Unit 3622

mk  
July 1, 2002